

SECTION A: SOLICITATION / CONTRACT FORM

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|---|---------|--|--|--|----------------------------------|--|----------------|
| SOLICITATION, OFFER, AND AWARD | | | 1. Market Open | | Page of Pages 1 50 | | |
| 2. Contract Number | | 3. Solicitation Number DCJF-2004-R-0031-M0001 | | 4. Type of Solicitation <input type="checkbox"/> Two-Step Sealed Bid (IFB) <input type="checkbox"/> Sealed Proposal (RFP) <input checked="" type="checkbox"/> Other | | 5. Date Issued December 3, 2004 | |
| 6a. Caption Municipal Aggregation of Electrical Power | | 6. Requisition/Purchase Number | | | | | |
| 7. Issued By Office of Contracting and Procurement Professional Services and Public Safety Commodity Group 441 4th Street, N.W., Suite 700 South Washington, DC 20001 | | | 8. Address Offer To (If other than line 7) | | | | |
| NOTE: In sealed bid solicitations "Offer" and "Offeror" means "Bid" and "Bidder" | | | | | | | |
| SOLICITATION | | | | | | | |
| 9. Technical Proposal in original and 6 copies for furnishing the suppliers or services in the Schedule will be received at the place specified in Item 8, or if hand carried, in the depository located in <u>Bid Counter, 441 4th Street, N.W., Suite 700 South</u> until <u>3:30 P.M.</u> local time <u>December 10, 2004</u> (Hour) (Date) | | | | | | | |
| NOTE: Pricing Associated with this Solicitation shall be received through a reverse auction hosted by World Energy Solutions on December 15, 2004 CAUTION: Late Submissions, Modifications and Withdrawals: See 27 DCMR Chapters 15 and 16 as applicable. All offers are subject to all terms and conditions contained in this solicitation. | | | | | | | |
| 10. For Information Contact | | A. Name Elizabeth Kilpatrick | | B. Telephone (No Collect Calls) (Area Code) 202 (Number) 724-4052 (Ext) | | C. E-mail Address elizabeth.kilpatrick@dc.gov | |
| 11. Table of Contents | | | | | | | |
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| OFFER | | | | | | | |
| 12. In compliance with the above, the undersigned agrees, if the offer is accepted by 3:00PM EST December 15th, 2004, to furnish any or all items upon which prices are offered for each auction RFP on the World Energy Solutions website, delivered at the designated point(s), within the time specified in the schedule. | | | | | | | |
| 13. Discount for Prompt Payment | | 10 Calendar days % | 20 Calendar days % | 30 Calendar days % | ___ Calendar days % | | |
| 14. Acknowledgement of Amendments (The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated): | | | Amendment Number | | Date | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| 15A. Name and Address of Offeror | | Code | Facility | 16. Name and Title of Person Authorized to Sign Offer/Contract | | | |
| 15B. Telephone (Area Code) (Number) (Ext) | | 15 C. Check if remittance address is different from above - enter address in Schedule Section K. | | 17. Signature | | 18. Offer Date | |
| AWARD (TO BE COMPLETED BY GOVERNMENT) | | | | | | | |
| 19. Accepted as to Items Numbered | | | 20. Amount | | 21. Accounting and Appropriation | | |
| 22. <input type="checkbox"/> Award - DC OCP Form 201 not required <input type="checkbox"/> Negotiated Agreement - DC OCP Form 201 must be executed | | | 23. Submit Invoices to Address Shown In (2 copies unless otherwise specified) | | | | Item |
| 24. Administered By (If other than Item 7) Code | | | 25. Reserved for future use | | | | |
| 26. Name of Contracting Officer (Type or Print) | | | 27. Government of the District of Columbia (Signature of Contracting Officer) | | | | 28. Award Date |

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SECTION B: SCOPE OF WORK

1 GENERAL

The District of Columbia Office of Contracting and Procurement (hereafter referred to as OCP) is requesting bids for the delivery of generation, transmission of firm electricity and any ancillary and/or incidental services to a number of facilities in the Potomac Electric Power Company (PEPCO) service territory in the District of Columbia. The successful Offeror (i.e., Contractor) will supply the full requirements of such electricity for terms of twelve (12), twenty-four (24), or thirty-six (36) full monthly billing cycles for each account. The start date for deliveries shall be the first billing cycle that begins after January 31, 2005. It will be the Contractor's responsibility to ensure that the delivery start date complies with these terms and any penalties resulting from missing this required service start date shall be born by the Contractor.

All quantities required to be delivered to facilities included in this contract shall be considered firm requirements and guaranteed for delivery by the Contractor to the Delivery Point. The Contractor shall be liable for all penalties assessed by the Independent System Operator to facilities for the non-delivery of firm requirements. The electricity provided under this contract shall conform to the tariff of the interstate/intrastate transmitting utility and the Local Distribution Utility (LDU) at the Delivery Points for the accounts specified in Exhibit A. The OCP has organized the electricity account data in Exhibit A as described below.

OCP is utilizing an internet-based transaction platform provided by the team of Science Applications International Corporation (SAIC) and World Energy Solutions Inc (WES) to obtain pricing for this procurement. Contractor's prices shall be submitted to the OCP utilizing an internet-based, reverse auction transaction platform provided by WES in accordance with the instructions in Section C of this Solicitation and the instructions found on the WES website at www.wesplatform.com.

Exhibit A – Consists of an Excel spreadsheet that specifies the accounts included in this contract and can be found at www.worldenergy.com/dc/pepco.asp. Aggregate totals are provided for each portion of the service territory. For each account, the following information is provided if available:

- (a) LDU rate schedule;
- (b) LDU account number;
- (c) OCP/account holder;
- (d) General Service Location;
- (e) LDU;
- (f) Monthly consumption (kWh);
- (g) Registered monthly distribution demand (KW);
- (h) Registered monthly maximum demand (KW);
- (i) Monthly on-peak KWH;
- (j) Monthly interim KWH;
- (k) Monthly off-peak KWH;
- (l) Monthly billing days;
- (m) Monthly load factor;
- (n) Range of meter read dates throughout the year; and
- (o) Hourly Consumption Data
- (p) Pricing Group to which each account belongs
- (q) Stipulated Monthly Consumption

2 DELIVERY POINT

The "Delivery Point" for such electricity shall be that point on the electric system at which the LDU takes possession of the electricity for final delivery of the electricity to the meter(s) of the specific facilities identified in Exhibit A of this contract. This same Delivery Point shall be where the facility takes title to the electricity.

3 CONTINUITY OF SERVICE

It shall be the Contractor's responsibility to coordinate with the LDU as necessary to resolve issues related to the LDU's regulated services and to ensure the reliable provision of electricity to the facilities included in this contract. Metering services shall continue to be provided by the LDU.

4 NOMINATING AND BALANCING RESPONSIBILITIES

It is the Contractor's responsibility to conduct all required nominations on behalf of the facilities specified herein. The Contractor shall be fully familiar with the imbalance, transmission grid loss and line loss policies of

both the LDU and the interstate/intrastate transmission companies. Any costs and/or penalties associated with these items will be borne by the Contractor.

5 CREDIT FOR DEFAULT SERVICE

If at any time (unless under a condition of Force Majeure) an account covered by this contract is forced to accept default service from the LDU serving in its capacity as the utility supplier of last resort, the Contractor shall be responsible for payment of any additional electric costs incurred as described in Section H.8.

6 RISK OF LOSS

Risk of loss of electricity supplied under this contract shall remain with the Contractor until, and risk shall pass to the OCP upon, delivery of said electricity to the Delivery Point specified for each facility.

7 PROTECTION OF CONTRACT INFORMATION

The OCP will maintain the confidentiality of information submitted by Bidder prior to and after award of the contract as required by law. The Contractor is advised that the OCP will make all contract prices publicly available for the full contract period upon contract award or awards. The Contractor shall also comply with all OCP law regarding the protection of all facility data and information furnished to the Contractor by the LDU.

8 ADDING FACILITIES TO THIS CONTRACT

For a variety of reasons, it is possible that certain authorized facilities eligible to compete their electric requirements but not included in Exhibit A may request to satisfy their competitive electric requirements by use of this contract. In that event, the OCP shall provide the Contractor with the facility's electric requirement and the two parties shall mutually agree as to whether to extend the full terms and conditions of this contract to such facility. Adding a facility(ies) shall be accomplished by the bilateral execution of a contract modification. Non-District of Columbia entities are prohibited from utilizing this contract to facilitate the procurement of their electric requirements.

9 EXTENSION PROVISIONS

The OCP may request extension of performance in accordance with the existing contract terms and conditions, so long as the total additional performance period does not exceed the total original period of performance (up to a total of three twelve (12) month extensions). Extension of Firm Fixed Prices must be accompanied by the agreement of all parties.

- a. Notice of request for bilateral extension will be furnished to the Contractor by OCP (as OCP designated electricity procurement authority) prior to the expiration of the contract or any extension thereof.
- b. Notice of request for bilateral extension of this contract shall be considered to have been accomplished at the time the OCP deposits written notification in the mail or provides such notification by facsimile transmission.
- c. Contractor will have 30 calendar days from notice of request for extension to accept or not accept the extension.
- d. Any extension will be accomplished by a contract modification executed by both parties.

10 PRICING PRODUCT DESCRIPTIONS

a. General Definitions

Electricity Supply: All components of firm electricity supply, including but not limited to generation capacity, energy, transmission capacity, ancillary services under all applicable transmission requirements by PJM Interconnection, LLC, or other Independent System Operator (ISO) or Independent Transmission Company (ITC), reliability assurance and other agreements (including capacity reserve obligations), services under the applicable Local Distribution Utility (LDU) supplier coordination tariffs and agreements (including, without limitation, all line losses, energy scheduling and coordination, account enrollment, imbalance and settlement charges, and billing services), offeror's trading and risk management program, customer account management activities including all fees, billing and reporting requirements under this contract, all applicable taxes and all of Offeror's overhead and profit, but not including other costs and rates related to the delivery or distribution of electricity by the LDU. The District of Columbia is exempt from all applicable taxes including Gross Receipts Tax (GRT).

Adjusted Market Cost (\$): In the case of an account or group of accounts *consuming more kWh than the Maximum Monthly Consumption Amount*, the following formula will be used to calculate Adjusted

Market Cost: ((Consumption During Billing Period) – (Maximum Monthly Consumption)) x (Day Ahead Load Weighted Average).

Force Majeure: Events not reasonably anticipated or within the control of the claiming Party such as, but not limited to, acts of God, acts of the public enemy, actions of governments or regulatory bodies, future changes in laws, rules, regulations, or utility practices/failure.

Billing Period: Period of time not less than 27 and no more than 32 days.

Consumption During Billing Period: A. In the case of a pricing group with one utility account, Consumption During Billing Period will be the amount of kWh consumed during a single utility billing cycle. B. In the case of a pricing group with more than one utility account, Consumption During Billing Period will be the consumption per calendar month calculated by pro rating the consumption of each account and summing the pro-rated totals to arrive at the Consumption During Billing Period to correspond with the calendar month.

Day Ahead Load Weighted Average: The average price per kWh over a Billing Period calculated by summing the product of the kWh consumed for each hour of an account's Hourly Consumption Profile by the PJM LBMP for the corresponding hour and dividing the sum by the total amount of kWh consumed over the period.

Day Ahead Market (DAM): The market administered by PJM which allows participants to buy and sell energy at binding prices.

Hourly Consumption Profile: The consumption profile for an electricity account which describes the actual amount of electricity consumed per hour over a given period of time. In instances where an Hourly Consumption Profile is needed but an account is not equipped with interval metering equipment, the generic profile supplied by the account's Local Distribution Company for that account's rate class and/or strata should be used.

Maximum Monthly Consumption Amount: The maximum amount of electricity an account or group of accounts can consume during a Billing Period without being subject to a Market Price Adjustment.

Minimum Monthly Consumption Amount: The minimum amount of electricity an account or group of accounts can consume during a Billing Period without being subject to a Market Price Adjustment.

National Holidays: New Year's Day, President's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving, Christmas, and the Monday following such of these as fall on Sunday

Off Peak: All hours not defined as On Peak.

On Peak: For days June 1-September 30, all weekdays during the hours between 7am and 11pm excluding National Holidays. For days October 1-May 31, all weekdays during the hours between 7am and 9pm excluding National Holidays.

PJM Locational Based Marginal Pricing (LBMP): The hourly integrated market clearing marginal price for energy at the location the energy is delivered or received. Location in the context of this definition will mean the load zone as defined by PJM in which an account is located.

Renewable Electricity Supply: Renewable power is electrical energy produced from renewable energy resources. For the purposes of this contract, power produced from the following renewable energy resources shall be considered renewable: wind, solar, geothermal, and biomass. All renewable power delivered under this contract must meet the technical requirements outlined in A.13.

b. Pricing Product Definitions

- i. **Firm Fixed Price:** Bids for this pricing product should consist of a single price per kWh for Electricity Supply. This pricing product will have a Maximum Monthly Consumption amount equal to 110% of the Stipulated Monthly Consumption volumes listed in Exhibit A. This pricing group will have no Minimum Monthly Consumption Amount. For any volumes used over the Maximum Monthly Consumption Amount, Contractor may at Contractor's option either a. calculate the Adjusted Market Cost and divide this total by the volume that exceeded the Maximum Monthly Consumption Amount to determine the cost per kWh for the volume that exceeded the Maximum Monthly Consumption Amount or b. charge the contracted Firm Fixed Price.
- ii. **Firm Fixed-Price, 5% Renewable:** Bids for this pricing group should consist of a single price per kWh for Electricity Supply where 5% of the electricity must be generated using Renewable Resources as described above. It is the intention of the OCP to evaluate for procurement a percentage of renewable energy.

- a. This pricing product will have a Maximum Monthly Consumption amount equal to 110% of the Stipulated Monthly Consumption volumes listed in Exhibit A. This pricing product will have no Minimum Monthly Consumption Amount. For any volumes used over the Maximum Monthly Consumption Amount, Offeror may at Offeror's option either a. calculate the Adjusted Market Cost and divide this total by the volume that exceeded the Maximum Monthly Consumption Amount to determine the cost per kWh for the volume that exceeded the Maximum Monthly Consumption Amount or b. charge the contracted Firm Fixed Price
- b. A successful Offeror must also comply with the reporting requirements outlined in Section B.13 specific to renewable energy.

11 REVERSE AUCTION PROCESS FOR PRICING USING WORLD ENERGY EXCHANGE

The OCP shall utilize an internet-based transaction platform provided by the team of Science Applications International Corporation (SAIC) and World Energy Solutions Inc (WES) to obtain pricing for this procurement. Contractor's prices shall be submitted to the OCP utilizing an internet-based, reverse auction transaction platform provided by WES at www.wesplatform.com in accordance with the instructions in Section C of this Solicitation and the WES website. All prices submitted to the WES transaction platform shall be in accordance with the provisions of the solicitation. It shall be the responsibility of the Bidder to understand both the rules and the mechanics of the WES transaction platform.

12 ADMINISTRATIVE FEES

- a. Fee Schedule: the Contractor hereby agrees to assess an administrative fee on all accounts included in this contract which will be included in the Bidder's price. The fees shall be paid as follows:

District of Columbia Energy Office (DCEO) Fee: The DCEO administrative fee is \$0.00025 per kWh. This fee will be paid by the successful Contractor(s) to the DCEO on a quarterly basis for all electricity that has been consumed and for which Contractor has received payment. The first payment should be received by the DCEO on or before April 31, 2004 and should cover payment for all electricity consumed and paid for during the term of the contract. Subsequent payments should occur every three months and cover payment for all electricity consumed and paid for up to the end of the quarter most recently ended. Payment is to be made payable to the District of Columbia Energy Office and sent to:

District of Columbia Government
Shelly Robinson-Smith
DC Energy Office
2000 14th Street, NW Suite 300E
Washington, DC 20009

- i. SAIC FEE: The SAIC fee will be paid to World Energy Solutions; the fee is \$0.001 per kWh and will be paid by the successful Contractor(s) directly to WES in accordance with the Payment Instructions Document found at www.worldenergy.com/dc/pepco.asp. The Contractor shall be responsible for providing to the Procurement Officer and WES a summary accounting of the monthly fees collected and monthly volume of electricity delivered per account on or before the 25th of each month as described in Section B.14.
- b. Fee Payment Provision: As an additional consideration to the OCP for entering into this contract, it is expressly understood and agreed to between the parties that the OCP shall have at its sole option and election the right to reduce its payment to the electric power supplier by a sum or amount that is equal to the unpaid monthly fee required to be paid to the reverse auction contractor (SAIC) under the contracts between the parties. The Contractor may have its payments from the OCP reduced and offset by this above stated amount if, and when, the OCP has received written notice from World Energy Solutions that it has not been paid by the electricity supplier its required and past due fee, as provided for in this contract. In the case of single billing, the amount of reduced payment from OCP to the LDU shall only be associated with the Contractors portion of the bill and payment for regulated LDU charges shall not be affected.

The reverse auction contractor must notify the OCP Procurement Officer or designee, within thirty (30) working days after the payment due date if payment has not been received from the electric power supplier (Contractor). No action will be taken by the OCP if notice of nonpayment has not been

received by the OCP Procurement Officer or designee within the thirty day period and the reverse auction contractor shall be deemed to have waived its right to have the OCP withhold payment. This notice will certify to the OCP the amounts due to the reverse auction contractor and the months they are due for supported by the appropriate calculations and back-up material. The OCP will communicate with the electric power supplier and will advise them of the situation including a copy of the reverse auction contractor's notice. If within ten (10) working days of the OCP providing notice, the electric power supplier has not paid or otherwise satisfactorily resolved the non-payment issue, the OCP shall have the unilateral and unequivocal right to withhold, deduct, or offset from amounts due to the power supplier an amount equal to the amount owed to the OCP's reverse auction contractor. The electric power supplier may, within 10 working days of the receipt of the notice of proposed deduction, present to the OCP Procurement Officer or designee documentation that substantiates payment was made to the reverse auction contractor. Failure to respond within the ten-day period will be deemed to mean that the electric power supplier accepts the deduction. The OCP will subsequently disburse and distribute this deduction amount to the reverse auction contractor. The OCP will also be entitled to withhold from payments due the electric supply contractor an amount sufficient to cover its administrative costs of withholding and making such distributions should it ever be required to exercise this contract provision. This amount shall be \$250.00 per deduction required.

It is understood and agreed that the OCP is not committing or agreeing to be a guarantor of payments due to the reverse auction contractor, nor will it assume any direct or indirect financial liability for payments to the reverse auction contractor. The OCP will not be required to incur any cost or expense to resolve matters that are purely a dispute between the electric power supplier and the reverse auction contractor. The OCP is merely providing a mechanism by which it can, at its sole option, provide for payment of money due the reverse auction contractor from the Contractor. OCP receives a benefit from the inclusion of this contractual language, such benefit reverse auction service pricing reductions based on lower risk of nonpayment to the reverse auction contractor.

In addition to the right to withhold from the Contractor and to pay the reverse auction contractor as provided in this provision, if litigation has been commenced in a court of record in the OCP, the OCP shall also have the unilateral right to pay the amounts claimed due into the court pending the outcome of litigation, and the amounts paid into court shall be distributed as ordered by the court.

The parties agree that the OCP shall have the right, but at no obligation, to conduct audits and obtain records of payment and account from the electric supplier, its subcontractors or others in order to verify that invoices, amounts of electric power provided and other data pertinent to the OCP's conduct of its business and cost of service is provided to the OCP and is accurate and correct.

A deduction from the electric power supplier's contract pursuant to this clause shall not constitute a default by the OCP under this contract. These remedies are not exclusive and are in addition to any remedies which may be available under this contract. Both the reverse auction contractor and the electric power supplier agree that should the OCP ever be required to exercise this clause that they shall hold harmless and indemnify the OCP from any loss, damage, injury, cost or expense that it may suffer as a result of having invoked this clause.

13 RENEWABLE ELECTRICITY SUPPLY

The District of Columbia is requesting bids where 5% of its power requirements will come from renewable energy resources (wind, solar, geothermal, and biomass). All renewable power products offered and accepted by this contract are required to be certified Green-e products within 90 days following the execution of this contract. The Green Power Board's Code of Conduct (see <http://www.green-e.org> Overview of Standard on web site) is the recognized industry business practice for the renewable energy industry and is the minimum code of conduct for this contract. This is the most efficient method for ensuring that the Contractor is adequately fulfilling its responsibility to provide green power as specified. The District of Columbia shall retain all of the environmental benefits (i.e. attributes) of the renewable power procured under this contract. The renewable power content requirements of this section are in addition to any renewable power content requirements required by District of Columbia regulatory bodies or District of Columbia law. In the event that renewable power definitions and/or the Green-e program changes in a significant manner during the course of this contract, the contract may be modified on a bi-lateral basis to reflect such changes.

14 REPORTING REQUIREMENTS

Both the Monthly Digital Summary and proof of Attestation of Renewable Attributes should be sent to:

District of Columbia Government
Tomaysa Sterling
DC Energy Office
2000 14th Street, NW Suite 300E
Washington, DC 20009

- a. Monthly Digital Summary: OCP and World Energy Solutions require a monthly summary from Bidders containing the following information by account number: service start period, service end period, maximum demand, total consumption, and total charges by Bidder. The summary should be in Microsoft Excel spreadsheet form or other agreed upon format and accompany or precede payment of monthly fees.
- b. Attestation of Renewable Attributes: On or before April 31st of each contract year, the Contractor will provide the Agency with a report attesting to the amount of renewable energy that has been supplied into the PJM grid on behalf of the District of Columbia, the percentage of each particular renewable source used to generate this electricity, and that it meets the definition of Renewable Electricity Supply as defined in Section B.13. The auditing and accounting standards used to provide such attestation and disclosure reports shall be those of the Green-e Certification program administered by the Center for Resource Solutions in California.

15 PAYMENT AND BILLING

The Contractor shall base all invoicing on metered quantities at the customer meter. If estimated usage values are used, the contractor shall adjust all estimated usage values to actual metered consumption levels no later than 3 months after an estimated usage data is used to assess billing. For the purposes of this contract, the District of Columbia shall pay the Contractor through monthly utility bills rendered by the LDU for each account included in this contract in accordance with the LDU's billing procedures which are fully regulated by the District of Columbia Public Service Commission (DCPSC).

It shall be the Contractor's responsibility to understand the specific details regarding the LDU's requirements for billing. It shall also be the Contractor's responsibility to ensure that proper reimbursement for electricity delivered to the Delivery Point is obtained from the LDU in accordance with applicable procedures of the appropriate regulatory bodies. Payments to the Utility pursuant to this Contract shall be made no later than 30 days after the District of Columbia's receipt of a proper invoice from the LDU. Charges for late payment of invoices, other than as prescribed in this contract, or by the District of Columbia Public Service Commission with respect to regulated public utilities, as applicable, are prohibited.

The single billing address for all District of Columbia accounts included in this contract will be:

Barbara Jumper
Office of Finance and Resource Management
441 4th Street, NW
Suite 890N
Washington, DC 20001
Phone Number (202) 727-0333

16 CONTRACT ADMINISTRATION

This contract shall be administered by the District of Columbia Government. The Contracting Officer (CO) for the administration of this contract is:

Elizabeth Kilpatrick
Contracting Officer
Office of Contracting and Procurement
441 4th St. NW Suite 700S
Washington, DC 20001

Telephone (202) 724-4052
Facsimile (202) 727-8843
Email Elizabeth.kilpatrick@dc.gov

The Contracting Officer's Representative (COR) for the administration of this contract is:

Tomaysa Sterling
Chief, Environmental Affairs
District of Columbia Energy Office

Telephone (202) 671-3307
Facsimile (202) 673-6725
Email tomaysa.sterling@dc.gov

2000 14th Street NW
Washington, DC 20009

17 POST AWARD REQUIREMENT FOR SERVICE START DATE REPORTING

The winning Contractor will be required to provide a spreadsheet clearly identifying each account number being served as a result of the contract award and the service start date for each of these accounts. This spreadsheet will be due within twenty-five (25) calendar days of the award of the contract.

SECTION C: SUBMISSION REQUIREMENTS

1 EVIDENCE OF TECHNICAL QUALIFICATION (TECHNICAL PROPOSAL)

Due to the critical nature of the electricity procured under this solicitation, the ability of the Offeror to adhere to the commitments made in this contract is crucial. Offeror's are required to submit the information outlined below so that the District of Columbia may make a determination of technical merits of the Offeror without requesting additional information from an Offeror. Failure to meet any of the following requirements will constitute a technically unacceptable offer. Each Offeror must demonstrate that it possesses the following:

a. General Requirements:

- i. Evidence that they are licensed by the District of Columbia to provide electric service.
- ii. Evidence that the Offeror or affiliate possesses a Federal Energy Regulatory Commission (FERC) power marketing license. Include FERC Docket No., Date of Application, and Date of Approval.
- iii. Evidence that the Offeror has firm transmission service agreements in the Offeror's name with PJM for the interconnection points between the LDU system and PJM to affect delivery to the Delivery Points of this contract.
- iv. Experience: The Offeror shall demonstrate that it possesses experience providing firm supply and firm transmission of electricity to retail customers in deregulated markets and is not merely acting as a broker. To document this experience, the Offeror shall submit the contact person, company name, account size, and phone number of the five (5) retail electric customers served during the last twelve continuous months. In addition, the Offeror shall provide the estimated number of retail electric account (with kWh and KW totals) that the Offeror is serving in deregulated market. OCP intends to verify Offeror's experience information by contacting at least two (2) references and others as appropriate.
- v. Power Supply Plan: The Offeror must explain its plans to supply ("supply plan") the energy required by this contract to the subject Delivery Points. Supply plans must address risk management techniques to be employed. The plan should also address contingency plans in the event that a wholesale counterparty involved in a supply plan defaults.
- vi. Past Performance: Focus of this factor will be on business relations, customer satisfaction, the timeliness and the accuracy of bills. The Offeror shall describe its ability to effectively and efficiently administer its retail electric contracts in deregulated markets. Offer should address any continuity of service problems. Offeror should demonstrate effectiveness of Offeror's contract administration management and their willingness to cooperate with or assist with routine matters and unexpected difficulties. Offeror should demonstrate adequate administrative resources to support customers in deregulated markets. Offeror should describe its ability to render accurate and timely billing information to LDUs necessary for the computation of bills and a similar ability to render its own bills for generation and transmission service. The Offeror should also describe and discuss previous billing problems and corrective actions taken by the Offeror to rectify such billing problems. The Offeror should discuss the timeliness of customer enrollments as well as its corrective actions taken in the event of any enrollment difficulties experienced in deregulated markets. The Agency intends to verify the Offeror's past performance information by contacting at least two (2) references provided above and others as appropriate.

2 PRICE PROPOSAL

- b. General. The District of Columbia is requesting pricing for a term of twelve (12), twenty-four (24), and thirty-six (36) full monthly billing cycles for each account beginning with the first billing cycle occurring after January 31 2005.
 - i. Pricing Offerors whose proposals meet the minimum requirements of Section C.1 will be invited to submit pricing for the facilities specified in Exhibit A. Offerors are not required to offer pricing for every combination of pricing group and pricing product included in Exhibit A, however pricing submitted for a pricing group must apply to all accounts contained in that pricing group. Pricing will be submitted via an on-line reverse auction.
 - ii. Pricing Group and Pricing Product Summary: The Pricing Group and Pricing Product Summary in Exhibit A summarizes the way various pricing groups and pricing products have been combined. Please note that although OCP will be requesting more than one pricing proposal for most pricing groups, each pricing group will be awarded to only one Offeror.
- c. The Offeror agrees to hold the prices in its price proposal firm until 3:00PM EST on December 15, 2004.
- d. Notes and Instructions to Offerors Regarding Pricing
 - i. The quantities shown in Exhibit A are estimated load requirements at the facility's meter and are based upon the best information available to OCP. The load information submitted is intended as an estimate of the magnitude and nature of the loads during a specified time period. Such estimates are being furnished for information purposes, and for computation of prices. The District of Columbia does not warrant the accuracy of the information in Exhibit A and the Contractor will be entitled to no additional compensation and no equitable adjustment of price if actual load requirements are different than as shown in Exhibit A except as expressly detailed in Section B.10. The District of Columbia will not be penalized in any way for pursuing load conservation projects that reduce load requirements except as any expressly detailed in Section B.10. Since it is impossible to determine the precise quantities that will be needed during the contract term, each Contractor shall be obligated to furnish each facility's electric requirements in full to the Delivery Point during the term of this contract.

3 SUBMISSION OF TECHNICAL AND PRICE PROPOSALS

In order to facilitate timely evaluation of Offeror proposals, the Agency will request and evaluate technical proposals before submission of price proposals.

- a. Technical Proposal: Offerors must submit 1 original and 2 copies of the Technical Proposal which includes offerors: Name, Address, Telephone Number, Federal tax identification number and DUNS Number plus completed and signed copies of Exhibits G and H. Technical Proposals must be received no later than 3:30PM EST December 10, 2004 at the address listed below. Email and faxed proposals will not be accepted.

Return to:
Office of Contracting and Procurement
Bid Room: Attn: Elizabeth Kilpatrick
441 4th Street, N.W
Suite 700 South
Washington, D.C. 20001

Suppliers submitting an acceptable technical proposal will be notified via e-mail on December 13, 2004

- b. Price Proposal: Offerors invited to submit price proposals will submit the pricing portion of their proposal on the World Energy Solutions auction platform at www.wesplatform.com on December 15, 2004 in accordance with the times listed in Exhibit A.

4 PRE-BID CONFERENCE INFORMATION

Interested offerors are invited to call into the pre-bid conference December 6, 2004 at 2:00PM EST. The call-in number is 1-800-366-7242; passcode 20169. The team of OCP, SAIC, and WES will be available

during this call to answer questions regarding: Solicitation terms and conditions, procurement schedule, usage information (Exhibit A), notification procedures and the reverse auction itself.

**CAUTION: OFFERORS ARE CAUTIONED THAT ANY AMENDMENTS MUST BE
ACKNOWLEDGED IN OFFEROR'S TECHNICAL PROPOSAL.**

SECTION D: NOT APPLICABLE

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SECTION E: NOT APPLICABLE

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SECTION F: NOT APPLICABLE

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SECTION G: NOT APPLICABLE

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SECTION H: SPECIAL CONTRACT REQUIREMENTS

H.1 DEPARTMENT OF LABOR WAGE DETERMINATIONS

Not Applicable

H.2 AUDITS, RECORDS, AND RECORD RETENTION

- H.2.1** For Cost Reimbursement CLINs under this contract, at any time or times before final payment and three (3) years thereafter, the Contracting Officer may have the Contractor's invoices or vouchers and statements of cost audited. Any payment may be reduced by amounts found by the Contracting Officer not to constitute allowable costs as adjusted for prior overpayment or underpayment. In the event that the District Government has made all payments to the Contractor and an overpayment is found, the Contractor shall reimburse the District for said overpayment within thirty (30) days after written notification.
- H.2.2** The Contractor shall establish and maintain books, records, and documents (including electronic storage media) in accordance with generally accepted accounting principles and practices, which sufficiently and properly reflect all revenues and expenditures of funds, provided by the District under the contract that results from this solicitation.
- H.2.3** The Contractor shall retain all records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to the contract for a period of five (5) years after termination of the contract, or if an audit has been initiated and audit findings have not been resolved at the end of five (5) years, the records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of the contract.
- H.2.4** The Contractor shall assure that these records shall be subject at all reasonable times to inspection, review, or audit by Federal, District, or other personnel duly authorized by the Contracting Officer.
- H.2.5** Persons duly authorized by the Contracting Officer shall have full access to and the right to examine any of the Contractor's contract and related records and documents, regardless of the form in which kept, at all reasonable times for as long as records are retained.
- H.2.6** The Contractor shall include these aforementioned audit and record keeping requirements in all approved subcontracts and assignments.

H.3 PUBLICITY

The Contractor shall at all times obtain the prior written approval from the Contracting Officer before it, any of its officers, agents, employees or subcontractor either during or after expiration or termination of the contract make any statement, or issue any material, for publication through any medium of communication, regarding the work performed or data collected under this contract.

H.4 CONFLICT OF INTEREST

- H.4.1** No official or employee of the District of Columbia or the Federal Government who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this contract shall, prior to the completion of the project, voluntarily acquire any personal interest, direct or indirect, in the contract or proposed contract. (DC Procurement Practices Act of 1985, D.C. Law 6-85, D.C. Official Code 2-310.01 and Chapter 18 of the DC Personnel Regulations).
- H.4.2** The Contractor represents and covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Contractor further covenants not to employ any person having such known interests in the performance of the contract.

H.5 PRE-TECHNICAL PROPOSAL CONFERENCE

See Section C.4

H.6 REQUEST FOR INFORMATION- EXPLANATION TO PROSPECTIVE OFFERORS

The prospective offeror shall submit questions, in writing, no later than **(3)** business days prior to the closing date and time indicated for this solicitation. The District will not consider any questions received after this date and time.

H.7 BID GUARANTEE

Not Applicable

H.8 LIQUIDATED DAMAGES

(a) If the Contractor fails to deliver the supplies or perform the services within the time specified in this contract to the District Government, the Contractor shall, in place of actual damages, pay liquidated damages per calendar day of delay, to the affected party based on the following formula:

((Standard Offer Service (SOS) Rate - Applicable Fixed Unit Contract Price x Daily Applicable Consumption, per day.

(b) If the Government terminates this contract in whole or in part under the Default Clause of the Standard Contract Provisions, the Contractor is liable for liquidated damages accruing until the Government reasonably obtains delivery or performance of similar supplies or services. These liquidated damages are in addition to excess costs of repurchase under the Termination clause.

(c) The Contractor will not be charged with liquidated damages when the delay in delivery or performance is beyond the control and without the fault or negligence of the Contractor as defined in the Default Clause in this contract.

SECTION I: CONTRACT CLAUSES

I.1 APPLICABILITY OF STANDARD CONTRACT PROVISIONS

The Standard Contract Provisions for use with District of Columbia Government Supply and Services Contracts dated April 2003, as amended, are incorporated as Exhibit C as part of the contract resulting from this solicitation.

I.2 MULTIYEAR CONTRACTS

As noted above, all multiyear contracts (those whose period of performance exceed one year) are contingent upon City Council approval.

I.3 CONFIDENTIALITY OF INFORMATION

All information obtained by the Contractor relating to any employee or customer shall be kept in absolute confidence and shall not be used by the Contractor in connection with any other matters, nor shall any such information be disclosed to any other person, firm, or corporation, in accordance with the District and Federal laws governing the confidentiality of records.

I.4 TIME

Time, if stated in a number of days, will include Saturdays, Sundays, and holidays, unless otherwise stated herein.

I.5 RESTRICTION ON DISCLOSURE AND USE OF DATA

Offerors who include in their proposal data that they do not want disclosed to the public or used by the District Government except for use in the procurement process shall:

I.5.1 Mark the title page with the following legend:

"This proposal includes data that shall not be disclosed outside the District Government and shall not be duplicated, used or disclosed in whole or in part for any purpose except for use in the procurement process.

I.5.2 If however, a contract is awarded to this Offeror as a result of or in connection with the submission of this data, the District Government shall have the right to duplicate, use, or disclose the data to the extent consistent with the District's needs in the procurement process. This restriction does not limit the District's rights to use, without restriction, information contained in this data if it is obtained from another source. The data subject to this restriction are contained in sheets (insert numbers or other identification of sheets)."

I.5.3 Mark each sheet of data it wishes to restrict with the following legend:

"Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this proposal."

I.6 RIGHTS IN DATA

I.6.1 "Data," as used herein, means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term does not include information incidental to contract administration, such as financial, administrative, cost or pricing, or management information.

I.6.2 The term "Technical Data", as used herein, means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental, developmental or engineering work, or be usable or used to define a design or process or to procure, produce, support, maintain, or operate material. The data may be graphic or pictorial delineation in media such as drawings or photographs, text in specifications or related performance or design type documents or computer printouts. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information, and computer software documentation. Technical data does not include computer software or financial, administrative, cost and pricing, and management data or other information incidental to contract administration.

- I.6.3** The term "Computer Software", as used herein means computer programs and computer databases. "Computer Programs", as used herein means a series of instructions or statements in a form acceptable to a computer, designed to cause the computer to execute an operation or operations. "Computer Programs" include operating systems, assemblers, compilers, interpreters, data management systems, utility programs, sort merge programs, and automated data processing equipment maintenance diagnostic programs, as well as applications programs such as payroll, inventory control and engineering analysis programs. Computer programs may be either machine-dependent or machine-independent, and may be general purpose in nature or designed to satisfy the requirements of a particular user.
- I.6.4** The term "computer databases", as used herein, means a collection of data in a form capable of being processed and operated on by a computer.
- I.6.5** All data first produced in the performance of this Contract shall be the sole property of the District. The Contractor hereby acknowledges that all data, including, without limitation, computer program codes, produced by Contractor for the District under this Contract, are works made for hire and are the sole property of the District; but, to the extent any such data may not, by operation of law, be works made for hire, Contractor hereby transfers and assigns to the District the ownership of copyright in such works, whether published or unpublished. The Contractor agrees to give the District all assistance reasonably necessary to perfect such rights including, but not limited to, the works and supporting documentation and the execution of any instrument required to register copyrights. The Contractor agrees not to assert any rights in common law or in equity in such data. The Contractor shall not publish or reproduce such data in whole or in part or in any manner or form, or authorize others to do so, without written consent of the District until such time as the District may have released such data to the public.
- I.6.6** The District shall have restricted rights in data, including computer software and all accompanying documentation, manuals and instructional materials, listed or described in a license or agreement made a part of this contract, which the parties have agreed will be furnished with restricted rights, provided however, notwithstanding any contrary provision in any such license or agreement, such restricted rights shall include, as a minimum the right to:
- I.6.6.1** Use the computer software and all accompanying documentation and manuals or instructional materials with the computer for which or with which it was acquired, including use at any District installation to which the computer may be transferred by the District;
- I.6.6.2** Use the computer software and all accompanying documentation and manuals or instructional materials with a backup computer if the computer for which or with which it was acquired is inoperative;
- I.6.6.3** Copy computer programs for safekeeping (archives) or backup purposes; and
- I.6.6.4** Modify the computer software and all accompanying documentation and manuals or instructional materials, or combine it with other software, subject to the provision that the modified portions shall remain subject to these restrictions.
- I.6.7** The restricted rights set forth in Section I.6.6 are of no effect unless
- (i) the data is marked by the Contractor with the following legend:

RESTRICTED RIGHTS LEGEND

Use, duplication, or disclosure is subject to restrictions stated in Contract

No. _____

With _____ (Contractor's Name) and

- (ii) If the data is computer software, the related computer software documentation includes a prominent statement of the restrictions applicable to the computer software. The Contractor may not place any legend on the computer software indicating restrictions on the District's rights in such software unless the restrictions are set forth in a license or agreement made a part of the contract prior to the delivery date of the software. Failure of the Contractor to apply a restricted rights legend to such computer software shall relieve the District of liability with respect to such unmarked software.

I.6.8 In addition to the rights granted in Section I.6.6 above, the Contractor hereby grants to the District a nonexclusive, paid-up license throughout the world, of the same scope as restricted rights set forth in Section I.6.6 above, under any copyright owned by the Contractor, in any work of authorship prepared for or acquired by the District under this contract. Unless written approval of the contracting Officer is obtained, the Contractor shall not include in technical data or computer software prepared for or acquired by the District under this contract any works of authorship in which copyright is not owned by the Contractor without acquiring for the District any rights necessary to perfect a copyright license of the scope specified in the first sentence of this paragraph.

I.6.9 Whenever any data, including computer software, are to be obtained from a subcontractor under this contract, the Contractor shall use E.6 in the subcontract, without alteration, and no other clause shall be used to enlarge or diminish the District's or the Contractor's rights in that subcontractor data or computer software which is required for the District.

I.6.10 For all computer software furnished to the District with the rights specified in Section I.6.6, the Contractor shall furnish to the District, a copy of the source code with such rights of the scope specified in Section I.6.5. For all computer software furnished to the District with the restricted rights specified in Section I.6.6, the District, if the Contractor, either directly or through a successor or affiliate shall cease to provide the maintenance or warranty services provided the District under this contract or any paid-up maintenance agreement, or if Contractor should be declared bankrupt or insolvent by the court of competent jurisdiction, shall have the right to obtain, for its own and sole use only, a single copy of the then current version of the source code supplied under this contract, and a single copy of the documentation associated therewith, upon payment to the person in control of the source code the reasonable cost of making each copy.

I.6.11 The Contractor shall indemnify and save and hold harmless the District, its officers, agents and employees acting within the scope of their official duties against any liability, including costs and expenses, (i) for violation of proprietary rights, copyrights, or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, use or disposition of any data furnished under this contract, or (ii) based upon any data furnished under this contract, or based upon libelous or other unlawful matter contained in such data.

I.6.12 Nothing contained in this clause shall imply a license to the District under any patent, or be construed as affecting the scope of any license or other right otherwise granted to the District under any patent.

I.6.13 Paragraphs I.6.6, I.6.7, I.6.8, I.6.11 and I.6.12 above are not applicable to material furnished to the Contractor by the District and incorporated in the work furnished under contract, provided that such incorporated material is identified by the Contractor at the time of delivery of such work

I.7 OTHER CONTRACTORS

The Contractor shall not commit or permit any act that will interfere with the performance of work by another District Contractor or by any District employee.

I.8 SUBCONTRACTS

The Contractor hereunder shall not subcontract any of the Contractor's work or services to any subcontractor without the prior, written consent of the Contracting Officer. Any work or service so subcontracted shall be performed pursuant to a subcontract agreement, which the District shall have the right to review and approve prior to its execution by the Contractor. Any such subcontract shall specify that the Contractor and the subcontractor

shall be subject to every provision of this contract. Notwithstanding any such subcontract approved by the District, the Contractor shall remain liable to the District for all Contractor's work and services required hereunder.

I.9 CONTINUITY OF SERVICES

I.9.1 The Contractor recognizes that the services provided under this contract are vital to the District of Columbia and must be continued without interruption and that, upon contract expiration or termination, a successor, either the District Government or another contractor, at the District's option, may continue to provide these services. To that end, the Contractor agrees to:

I.9.1.1 Furnish phase-out, phase-in (transition) training to facilitate the transition in operations from the Contractor to the District Government successor to this contract;

I.9.1.2 Exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.

I.10 INSURANCE

Not Applicable

I.11 EQUAL EMPLOYMENT OPPORTUNITY

In accordance with the District of Columbia Administrative Issuance System, Mayor's Order 85-85 dated June 10, 1985; the forms for completion of the Equal Employment Opportunity Information Report are incorporated herein as Attachment F. An award cannot be made to any Offeror who has not satisfied the equal employment requirements as set forth by the Office of Local Business Development.

SECTION J: LIST OF ATTACHMENTS

- 1** Exhibit A – Usage Information and Auction Schedule
To be released on or prior to December 9th, 2004
- 2** Exhibit B – Not Applicable
- 3** Exhibit C – Standard Contract Provisions
See Attachment
- 4** Exhibit D – Not Applicable
- 5** Exhibit E – Not Applicable
- 6** Exhibit F – Not Applicable
- 7** Exhibit G – Tax Certification Affidavit
See Attachment
- 8** Exhibit H – Offeror Confirmation Regarding Auction Rules
See page 30 of this Solicitation

SECTION K: REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS

K.1 RESERVED

K.2 TAX CERTIFICATION

Each Offeror must submit with its offer, a sworn Tax Certification Affidavit incorporated herein as Exhibit G

K.3 AUTHORIZED NEGOTIATORS

The Offeror represents that the following persons are authorized to negotiate on its behalf with the District in connection with this request for proposals: (list names, titles, and telephone numbers of the authorized negotiators).

K.4 TYPE OF BUSINESS ORGANIZATION

K.4.1 The Offeror, by checking the applicable box, represents that

(a) It operates as:

☐ a corporation incorporated under the laws of _____
☐ an individual,

☐ a partnership
☐ a nonprofit organization, or
☐ a joint venture; or

(b) If the Offeror is a foreign entity, it operates as:

☐ an individual
☐ a joint venture, or
☐ a corporation registered for business in _____
(Country)

K.5 FIRST SOURCE EMPLOYMENT AGREEMENT

For all offers over \$100,000, except for those in which the Offeror is located outside the Washington Metropolitan Area and will perform no work in the Washington Metropolitan Area, the following certification is required (see Clause 28 of the Standard Contract Provisions). The Offeror recognizes that one of the primary goals of the District government is the creation of job opportunities for bona fide District residents. Accordingly, the Offeror agrees to pursue the District's following goals for utilization of bona fide residents of the District of Columbia with respect to this contract and in compliance with Mayor's Order 83-265: (1) at least 51% of all jobs created as a result of this contract are to be performed by employees who are residents of the District of Columbia, and (2) at least 51% of apprentices and trainees shall be residents of the District of Columbia and registered in programs approved by the D.C. Apprenticeship Council. The Offeror also agrees to notify all perspective subcontractors, prior to execution of any contractual agreements, that the subcontractors are expected to implement Mayor's Order 83-265 in their own employment practices. The Offeror understands and will comply with the requirements of The Volunteer Apprenticeship Act of 1978, D.C. Official Code sec. 32-1401 et seq., and the First Source Employment Agreement Act of 1984, D.C. Official Code sec. 2-219.01 et seq.

The Offeror certifies that it intends to enter into a First Source Employment Agreement with the District of Columbia Department of Employment Services (DOES). Under this First Source Employment Agreement, the Offeror will use DOES as the first source for recruitment and referral of any new employees. The Offeror shall negotiate the First Source Employment Agreement directly with DOES. Nothing in this certification or the First Source Employment Agreement shall be construed as requiring the Offeror to hire or train persons it does not consider qualified based on standards the Offeror applies to all job applicants.

Name _____ Title _____

Signature _____ Date _____

K.6 CERTIFICATION AS TO COMPLIANCE WITH EQUAL OPPORTUNITY OBLIGATIONS

Mayor's order 85-85 "Compliance with Equal Opportunity Obligations in Contracts", dated June 10, 1985 and the Office of Human Rights' regulations, Chapter 11, "Equal Employment Opportunity Requirements in Contracts", promulgated August 15, 1986 (4 DCMR Chapter 11, 33 DCR 4952) are included as a part of this solicitation and require the following certification for contracts subject to the order. Failure to complete the certification may result in rejection of the Offeror for a contract subject to the order. I hereby certify that I am fully aware of the content of the Mayor's Order 85-85 and the Office of Human Rights' regulations, Chapter 11, and agree to comply with them in performance of this contract.

Offeror _____ Date _____

Name _____ Title _____

Signature _____

Offeror _____ has _____ has not participated in a previous contract or subcontract subject to the Mayor's Order 85-85. Offeror _____ has _____ has not filed all required compliance reports, and representations indicating submission of required reports signed by proposed subofferors. (The above representations need not be submitted in connection with contracts or subcontracts, which are exempt from the Mayor's Order.)

K.7 WALSH-HEALEY ACT

N/A

K.8 BUY AMERICAN CERTIFICATION

N/A

K.9 OFFICERS NOT TO BENEFIT CERTIFICATION

Each Offeror shall check one of the following:

_____ No person listed in Clause 17 of the Standard Contract Provisions will benefit from this contract.

_____ The following person(s) listed in Clause 17 may benefit from this contract. For each person listed, attach the affidavit required by Clause 17 of the Standard Contract Provisions.

K.10 CERTIFICATION OF INDEPENDENT PRICE DETERMINATION

(a) In accordance with D.C. Official Code 2-303.16, each signature of the Offeror is considered to be a certification by the signatory that:

- 1) The prices in this Contract have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any Offeror or competitor relating to:
 - (i) those prices,
 - (ii) the intention to submit a Contract, or
 - (iii) the methods or factors used to calculate the prices in the Contract;
- 2) The prices in this Contract have not been and will not be knowingly disclosed by the Offeror, directly or indirectly, to any other Offeror or competitor before Contract opening unless otherwise required by law; and

- 3) No attempt has been made or will be made by the Offeror to induce any other concern to submit or not to submit a Contract for the purpose of restricting competition.
- (b) Each signature on the offer is considered to be a certification by the signatory that the signatory;
- 1) Is the person in the Offeror's organization responsible for determining the prices being offered in this Contract, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or
 - 2) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above:

(Insert full name of person(s) in the organization responsible for determining the prices offered in this Contract and the title of his or her position in the Offeror's organization);

- (i) As an authorized agent, does certify that the principals named in subdivision (b)(2)(I) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and
 - (ii) As an agent, has not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above.
- (b) If the Offeror deletes or modifies subparagraph (a)(2) above, the Offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

K.11 PROTESTS

Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract, must file with the D.C. Contract Appeals Board (Board) a protest no later than 10 business days after the basis of protest is known or should have been known, whichever is earlier. A protest based on alleged improprieties in a solicitation, which are apparent prior to bid opening, or the time set for receipt of initial proposals shall be filed with the Board prior to bid opening or the time set for receipt of initial proposals. In procurements in which proposals are requested, alleged improprieties which do not exist in the initial solicitation, but which are subsequently incorporated into this solicitation, must be protested no later than the next closing time for receipt of proposals following the incorporation. The protest shall be filed in writing, with the Contract Appeals Board, 717 14th Street, N.W., Suite 430, Washington, D.C. 20004. The aggrieved person shall also mail a copy of the protest to the Contracting Officer for the solicitation.

K.12 SIGNING OF OFFERS

The Contractor shall sign the offer and print or type its name on the **Solicitation, Offer and Award** form of this solicitation. The person signing the offer must initial erasures or other changes. Offers signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the Contracting Officer.

K.13 UNNECESSARILY ELABORATE PROPOSALS

Unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete and effective response to this solicitation are **not** desired and may be construed as an indication of the Offeror's lack of cost consciousness. Elaborate artwork, expensive paper and bindings, and expensive visual and other presentation aids are neither necessary nor desired

K.14 RETENTION OF PROPOSALS

All proposal documents will be the property of the District and retained by the District, and therefore will not be returned to the Offerors.

K.15 PROPOSAL COSTS

The District is not liable for any costs incurred by the Offerors in submitting proposals in response to this solicitation.

K.16 ACKNOWLEDGMENT OF AMENDMENTS

The offeror shall acknowledge receipt of any amendment to this solicitation by (a) signing and returning the amendment; (b) by identifying the amendment number and date in the space provided for this purpose in Section A of the solicitation; or (c) by letter or telegram including mailgrams. The District must receive the acknowledgment by the date and time specified for receipt of offers. Offerors' failure to acknowledge an amendment may result in rejection of the offer.

SECTION L: NOT APPLICABLE

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SECTION M: EVALUATION FACTORS FOR AWARD

1 EVALUATION

a. Technical Proposal Evaluation (Listed by order of importance)

- i. Licensing and Certification: Offeror must show that it holds all necessary licenses including: registration with the District of Columbia to provide electricity supply service; that Offeror or an affiliate holds a FERC power marketing license; that Offeror has agreements in place to allow for transmission between PJM and delivery points listed in this solicitation.
- ii. Experience: The Agency values experience serving large commercial accounts (500 KW and larger) for at least twelve months continuous service in deregulated markets, and a significant current customer base in deregulated markets. Preferably, the number of accounts served should exceed fifty (50) and be behind the PJM interconnection. Additionally, the Agency values a scenario in which this contract's projected load represents no more than 20% of the total load currently be served by the Bidder in deregulated markets.
- iii. Risk Management Strategies: The Agency will evaluate the power supply plan and risk management techniques to be employed. Plans will be evaluated based in general on the overall realism of the Bidder's plan to financially support its obligations to deliver electricity to the District of Columbia. While there is no one acceptable or preferred supply plan or risk management strategy, the Agency values plans that are well thought out, clearly reasoned, and evidence planning to deal with the volatility inherent in commodity markets.
- iv. Past Performance: The Agency values the quality of the Bidder's past performance in carrying out the work of a comparable nature and will consider business relations, customer satisfaction, accurate and timely billing, enrollment success, problem resolution and service continuity. The Agency will evaluate the Bidder's ability to effectively and efficiently administer its retail electric contracts in deregulated markets. The Agency will evaluate the contractor's ability to successfully manage contract performance, including, but not limited to, effectiveness of key personnel, willingness to cooperate with or assist with routine matters and unexpected difficulties and adequate administrative resources to support customers in deregulated markets. The Agency will evaluate the Bidder's ability to render accurate and timely billing information to LDUs necessary for the computation of bills and a similar ability to render its own bills for generation and transmission service. The Agency will evaluate Bidder's response to previous billing problems and corrective actions taken by the Bidder to rectify such billing problems. The Agency will evaluate the timeliness of customer enrollments as well as its corrective actions taken in the event of any enrollment difficulties experienced in deregulated markets.

b. Price Proposal Evaluation

OCP will determine the price offered per kWh for each group of accounts from the pricing submitted over the World Energy Solutions auction platform and determine the lowest price per kWh for each combination of pricing group and pricing product. The bid which presents the lowest weighted price per kWh will be determined the lowest bid for any particular combination of Pricing Group and Pricing Product. For any account which receives bids in the form of more than one pricing product, the District of Columbia can choose to award a contract to the lowest bid on any of the pricing products requested. Below are the specific criteria which will be used to determine the lowest weighted price per kWh for each Pricing Product defined in Section B.10:

- i. Firm Fixed Price: The lowest bid price per kWh will be evaluated as the lowest price per kWh.
- ii. Firm Fixed Price, 5% Renewable: The lowest bid price per kWh will be evaluated as the lowest price per kWh.

If OCP determines that any offer is materially unbalanced or is not in the best interest of the District of Columbia, then the Contracting Officer or designee may reject such offer.

2 BASIS FOR AWARD

- c.* Contracts will be awarded to each responsive and responsible bidder submitting an acceptable technical proposal and the lowest evaluated price for each account based on the pricing product chosen. There will be no more than one contract issued per account.
- d.* OCP can accept or reject any or all bids, in whole or in part. OCP can make a single award, multiple awards, or no award at all.

EXHIBIT H: OFFEROR CONFIRMATION REGARDING AUCTION RULES

By signing Exhibit H, the Offeror hereby states that they have read, have been given a fair opportunity to ask questions about, and agree to the terms of this Solicitation. Additionally, the Contractor understands and agrees to the following:

- This procurement will be run through a reverse auction hosted by World Energy Solutions.
- Offeror's should not submit pricing with the required paperwork (as described in Section C of this Solicitation) as all prices will be submitted through the World Energy Exchange auction platform.
- All bids submitted through the reverse auction will be "blind bids" in that the lowest price bid will be shown but the name of the offeror will not.
- Auctions will be run in 5 or 10-minute increments organized by RFP number. Only prices offered before the specified end time for each RFP will be accepted. Any price received after the specified end time will not be accepted by OCP even if it is the lowest price
- Though the auction platform is not difficult to use, it is strongly suggested that each Offeror understands how to use the auction platform prior to the day of the auction. It is the Contractor's responsibility to be fully familiar with the auction platform prior to the auction event(s) occurring.
- Offerors must register on World Energy Solutions website www.wexch.com prior to the day(s) the auction occurs to participate in this auction.
- Offerors are advised to submit their best and final price prior to the final minute of the auction. Any user-related internet problems (including connection speed, internal software, user error, network problems) are the express responsibility of the offeror.
- Per Section B.1- General- It is the winning Offeror's responsibility to ensure that service starts on the next meter read date immediately following January 31, 2005.
- Per Section B.4 -Nominating and Balancing Responsibilities –Winning Contractors are responsible for all nominating and balancing requirements and it is the Contractor's responsibility not the facilities responsibility to gather all of the necessary information related to managing accounts.
- Per Section B.12 – Administrative Fees - All prices will be inclusive of both OCP and World Energy's fees.
- Per Section C.3 of the Solicitation, Offerors are required to hold the price they bid until 3:00PM EST the day of the auction December 15th, 2004.
- Per Section B.17 – Post Award Requirement for Service Start Date Reporting – Wining Contractors will be required to provide a spreadsheet clearly identifying each account number being served under each LDC as a result of contract award and the expected service start date for each of these accounts within 30 calendar days of contract award.

CONTRACTOR

(Authorized Signature)

Printed

Name: _____

Title: _____

Date: _____